

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )  
 )  
 PLAINTIFF, ) CASE NO. 13CR0472-JAH  
 )  
 VS. ) SAN DIEGO, CALIFORNIA  
 )  
 DAVID JOSE RICO, ) MONDAY,  
 ) MARCH 17, 2014  
 DEFENDANT. ) 9:02 A.M.  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

SENTENCING HEARING

BEFORE THE HONORABLE JOHN A. HOUSTON  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE GOVERNMENT: LAURA E. DUFFY, U.S. ATTORNEY  
BY: ALESSANDRA P. SERANO, ESQ.  
ASSISTANT U.S. ATTORNEY  
880 FRONT STREET  
SAN DIEGO, CALIFORNIA 92101

FOR THE DEFENDANT: JACK BOLTAX  
ATTORNEY AT LAW  
701 B STREET  
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1 SAN DIEGO, CALIFORNIA - MONDAY, MARCH 17, 2014

2 9:02 A.M.

3 THE CLERK: NO. 2 IS NEXT, 13CR0472, THE UNITED  
4 STATES OF AMERICA VERSUS DAVID JOSE RICO.

5 MS. SERANO: GOOD MORNING, YOUR HONOR. ALESSANDRA  
6 SERANO ON BEHALF OF THE UNITED STATES.

7 THE COURT: GOOD MORNING, MS. SERANO.

8 MR. BOLTAX: GOOD MORNING, YOUR HONOR. JACK BOLTAX  
9 ON BEHALF OF DAVID JOSE RICO.

10 THE COURT: GOOD MORNING, SIR.

11 MR. BOLTAX: HOW ARE YOU?

12 THE COURT: I'M WELL. THANK YOU.

13 MR. BOLTAX: YOUR HONOR, MR. RICO IS NOW PRESENT,  
14 AND I'M READY TO PROCEED.

15 THE COURT: ALL RIGHT. GOOD MORNING, SIR.

16 THE DEFENDANT: GOOD MORNING.

17 THE COURT: WE'RE HERE ON THE MATTER OF SENTENCING  
18 AFTER YOUR JURY TRIAL. I'VE REVIEWED THE PRE-SENTENCE  
19 REPORT, YOUR OBJECTIONS TO THE REPORT, YOUR SENTENCING  
20 MEMORANDUM, LETTERS IN SUPPORT OF SENTENCING, YOUR SENTENCING  
21 SUMMARY CHART, THE GOVERNMENT'S MEMORANDUM AND THE  
22 GOVERNMENT'S CHART.

23 COUNSEL, I'D LIKE TO HEAR FROM YOU.

24 MR. BOLTAX: YOUR HONOR, I THINK I HAVE IN RATHER  
25 DETAIL, WITH THE LENGTHY SENTENCING MEMORANDUM AND THE

1 DOCUMENTS, SET FORTH THE DEFENSE'S POSITION.

2 IS THERE ANY ISSUE THAT THE COURT WANTS ME TO  
3 ADDRESS?

4 THE COURT: I'D LIKE TO HEAR FROM YOU GENERALLY,  
5 SIR.

6 MR. BOLTAX: GENERALLY, YOUR HONOR, IT'S MY POSITION  
7 THAT MY CLIENT'S ROLE IN THIS OFFENSE WAS SUBSERVIENT TO THAT  
8 OF THE CO-DEFENDANT, MS. KELLY. AND IN PARTICULAR, I MADE A  
9 PROPORTIONALITY ARGUMENT, WHICH MAY BE TO SOME DEGREE  
10 DIFFICULT TO UNDERSTAND, BUT I THINK MAYBE I'LL SET IT FORTH  
11 IN A LITTLE MORE CLARITY.

12 WHEN --

13 THE COURT: I TOOK YOUR PROPORTIONALITY ARGUMENT AS  
14 A DISPARITY ARGUMENT; IS THAT NOT CORRECT?

15 MR. BOLTAX: THAT'S CORRECT. IT'S DISPARITY IN A  
16 DISPROPORTIONATE SENTENCE. AND BASICALLY I UNDERSTAND THAT  
17 MS. KELLY GOT SOME BENEFIT FOR HER ROLE IN COOPERATING IN  
18 THIS CASE AND TESTIFYING AGAINST MY CLIENT AT TRIAL.  
19 HOWEVER, I THINK WE NEED TO KEEP IT IN PERSPECTIVE IN TERMS  
20 OF WHAT HAPPENED AND HOW SHE GOT TO THAT SENTENCE THAT THE  
21 COURT GAVE HER.

22 I RECEIVED A COPY OF AN EDITED PROBATION REPORT FROM  
23 THE COURT IN ORDER TO PREPARE FOR TRIAL. AND THE  
24 RECOMMENDATION FROM THE PROBATION OFFICER FOR MS. KELLY, WHO  
25 CLEARLY WAS SUFFERING UNDER VERY HIGH GUIDELINES, WAS A

1       SIGNIFICANT DEPARTURE DOWNWARD TO 60 MONTHS.

2               NOW, AT THAT POINT, SHE HAD NOT COOPERATED, SHE HAD  
3 NOT TESTIFIED. SO THAT 60-MONTH PROPOSAL FROM THE PROBATION  
4 DEPARTMENT, IN MY ESTIMATION, WAS EXCESSIVELY GENEROUS,  
5 ESPECIALLY IN LIGHT OF THE TESTIMONY THAT CAME OUT AT TRIAL  
6 IN REGARDS TO THE ROLE OF MS. KELLY, WHICH THE PROBATION  
7 OFFICER WAS NOT AWARE OF.

8               SHE PLAYED A SIGNIFICANT ROLE. SHE WAS THE ONE --  
9 IT WAS HER SISTER-IN-LAW WHO SHE UTILIZED. SHE'S THE ONE WHO  
10 HELPED THE SISTER-IN-LAW RUN AWAY. SHE'S -- AND THAT  
11 OCCURRED IN JANUARY. SHE PROVIDED HER SAFE HAVEN BY  
12 PROVIDING HER A PLACE TO LIVE THROUGH VARIOUS HOTEL ROOMS.  
13 SHE WAS THE ONE WHO RECRUITED HER AT THE END OF FEBRUARY TO  
14 BEGIN PARTICIPATING IN THIS PROSTITUTION SCHEME.

15              AND IT SHOULD BE CLEAR THAT SHE TESTIFIED THAT --  
16 AND MS. J.C., EXCUSE ME, TESTIFIED THAT THERE WAS A  
17 SEVERAL-WEEK PERIOD BEFORE MY CLIENT WAS EVEN INVOLVED IN  
18 THIS, WHEN J.C. WAS WORKING FOR THE CO-DEFENDANT IN THIS  
19 CASE.

20              THE CO-DEFENDANT DID EVERYTHING THAT LARRY THOMAS,  
21 THE EXPERT, TESTIFIED TO WAS THE ROLE OF A PIMP. SHE  
22 RECRUITED HER. SHE PROVIDED THE CLOTHING FOR HER TO MAKE THE  
23 BACKPAGE ADS. SHE TOOK THE PHOTOS FOR THE BACKPAGE ADS. SHE  
24 PRODUCED THE BACKPAGE ADS. SHE WAS THE ONE WHO RESPONDED TO  
25 THE BACKPAGE ADS. SHE'S THE ONE WHO SET THE PRICE. SHE IS

1 THE ONE WHO TOOK THE CALLS AND MADE THE APPOINTMENTS. SHE'S  
2 THE ONE WHO TOOK J.C. TO THE OUTCALLS AND PICKED HER UP FROM  
3 THE OUTCALLS TO THE IN-CALLS.

4 SHE DID ADDITIONAL THINGS, WHICH SHE, AS OPPOSED TO  
5 MY CLIENT, WAS AWARE, IN TERMS OF WHAT MS. SERANO REFERS TO  
6 AS THE, QUOTE, UNQUOTE, ISSUES THAT J.C. HAD. AND THAT IS  
7 SHE PROVIDED HER WITH METHAMPHETAMINE FOR THE EXPLICIT  
8 PURPOSE OF KEEPING HER UP SO THAT SHE COULD RESPOND TO  
9 LATE-NIGHT CALLS FROM POTENTIAL CUSTOMERS.

10 SHE ALSO PROVIDED HER WITH HEROIN. AND THAT WAS  
11 BROUGHT OUT BECAUSE, AS WAS EVIDENCED BY THE TESTIMONY, MY  
12 CLIENT WAS AGAINST THE USE OF HEROIN AND HAD NOTHING TO DO  
13 WITH IT.

14 SHE ALSO EMOTIONALLY ABUSED HER SO THAT SHE WOULD  
15 STAY AWAY AND NOT GO BACK TO HER FAMILY, TELLING HER AT ONE  
16 POINT THAT HER DOG HAD DIED, TELLING HER WHAT WOULD HAPPEN IF  
17 THE FAMILY FOUND OUT WHAT SHE HAD BEEN DOING IF SHE WENT  
18 HOME. MR. THOMAS TESTIFIED THAT THOSE WERE EXPLICIT THINGS  
19 THAT WERE DONE BY PIMPS IN ORDER TO KEEP THEIR PSYCHOLOGICAL  
20 HOLD ON THE PROSTITUTES THAT WERE WORKING FOR THEM.

21 SO IT WAS A SITUATION WHERE SHE ALSO PHYSICALLY  
22 ABUSED HER. SHE BASICALLY DID EVERYTHING SHE COULD,  
23 ACCORDING TO MR. THOMAS, TO KEEP HER IN THE FOLD. SO ALL OF  
24 THE SIGNIFICANT THINGS THAT WERE DONE IN THIS CASE WERE DONE,  
25 IN TERMS OF WHO WAS THE PIMP, BY MS. KELLY. AND SO, IN MY

1 VIEWPOINT -- I DON'T KNOW EXACTLY WHAT THE COURT DID. I  
2 WASN'T HERE. THERE WAS A RECOMMENDATION OF 60 MONTHS BY THE  
3 PROBATION DEPARTMENT. THE COURT GAVE HER, I BELIEVE, 51  
4 MONTHS.

5 I DON'T KNOW IF THE COURT FOLLOWED THE 60 MONTHS.  
6 IF I ASSUME THAT IT DID, THEN SHE GOT A NINE-MONTH BREAK FOR  
7 HER COOPERATION. BUT THE 60 MONTHS BECOMES THE GAUGE,  
8 BECAUSE IF MY CLIENT WAS LESS CULPABLE, IN TERMS OF HIS  
9 PARTICIPATION IN THIS, THEN HE SHOULD GET A LOWER SENTENCE IF  
10 HE WAS ELIGIBLE TO GET BELOW THE TEN-YEAR MINIMUM MAN.

11 UNFORTUNATELY, HE'S NOT, BECAUSE HE WENT TO TRIAL  
12 AND HE GOT CONVICTED. HE GOT CONVICTED OF THE TEN-YEAR MIN  
13 MAN. SO IT IS MY POSITION THAT, RATHER THAN GET THE 168  
14 MONTHS, WHICH IS WHAT MS. SERANO IS RECOMMENDING, OR THE 144  
15 MONTHS, WHICH IS WHAT THE PROBATION DEPARTMENT IS  
16 RECOMMENDING, I BELIEVE THAT TEN YEARS WOULD BE THE  
17 APPROPRIATE SENTENCE IN THIS CASE, AT LEAST IN PART DUE TO  
18 THAT.

19 IN ADDITION, I'D LIKE TO INDICATE THAT THERE ARE  
20 CERTAIN FACTORS THAT ARE POSITIVE FOR MY CLIENT. HE'S ALWAYS  
21 WORKED SINCE HE'S BEEN A YOUNG MAN. HE HAS A CHILD OF HIS  
22 OWN, WHO HE HAS PROVIDED, UP UNTIL HIS ARREST IN THIS CASE,  
23 CHILD SUPPORT FOR. HE HAS AN EXTENDED FAMILY, AND HIS FAMILY  
24 IS HERE. IF THEY WOULD STAND UP AND IDENTIFY THEMSELVES FOR  
25 THE COURT.

1           YOU CAN SEE THERE IS A WHOLE ROW OF PEOPLE. HIS  
2 MOTHER IS HERE. HIS BROTHER IS HERE. A COUPLE OF AUNTS ARE  
3 HERE. I DON'T KNOW IF THE COURT WANTS ME TO HAVE THE PEOPLE  
4 IDENTIFY THEMSELVES OR NOT.

5           THE COURT: IT'S NOT NECESSARY.

6           GOOD MORNING.

7           MR. BOLTAX: WHAT THAT MEANS IS ONE OF THE THINGS  
8 THE COURT NEEDS TO BE CONCERNED ABOUT IS WHAT ARE HIS CHANCES  
9 WHEN HE GETS OUT, OF BEING SUCCESSFUL WHEN HE GETS OUT OF  
10 JAIL. AND HIS MOTHER AND FATHER AND FAMILY HAVE INDICATED  
11 THAT THEY WILL PROVIDE THE SUPPORT AND BACKING THAT HE NEEDS  
12 IN ORDER TO GET ON HIS FEET, A PLACE TO LIVE AND HELP WITH  
13 GETTING WORK IF HE SO NEEDS IT.

14           I DON'T KNOW IF THERE IS ANYTHING ELSE THAT THE  
15 COURT WANTS ME TO ADDRESS. I DID ADDRESS THE ISSUE OF THE  
16 COMPUTER. I THINK THE APPLICATION NOTES INDICATE WHAT THE  
17 COMPUTER ENHANCEMENT STANDS FOR. IN THIS SITUATION, MY  
18 CLIENT WASN'T THE ONE WHO UTILIZED THE COMPUTER FOR THE  
19 PURPOSE OF MAKING THE BACKPAGE ADS. HE WASN'T THE ONE WHO  
20 LOADED THEM AND HE WASN'T THE ONE WHO TOOK THE MESSAGES FROM  
21 THE COMPUTER.

22           IN ADDITION, I MADE A COROLLARY ARGUMENT TO THE  
23 CHILD PORNOGRAPHY CASES, BECAUSE THE U.S. SENTENCING  
24 COMMISSION HAS RECENTLY COME DOWN AND ADDRESSED THE ISSUE OF  
25 THE UTILIZATION OF THE COMPUTER ENHANCEMENT FOR CHILD PORN

1 CASES, AND INDICATED THAT WHEN THE GUIDELINES WERE ENACTED IN  
2 DEALING WITH THE CHILD PORN CASES, THAT THE COMPUTER  
3 ENHANCEMENT WAS APPROPRIATE, BECAUSE IT WAS AN AGGRAVATING  
4 FACTOR BECAUSE IT WASN'T THE TYPICAL WAY BY WHICH THIS  
5 TYPE -- THAT TYPE OF CRIME WAS COMMITTED.

6 AND SO IT WENT ON TO INDICATE THAT IN THIS DAY AND  
7 AGE, AT LEAST WITH CHILD PORN CASES, 90 PERCENT OF THE CASES  
8 OR MORE USE A COMPUTER, AND IT MAY NOT BE AT THIS POINT ANY  
9 LONGER AN AGGRAVATING FACTOR BECAUSE IT'S THE TYPICAL WAY IN  
10 WHICH THE CRIMES ARE COMMITTED.

11 AND I WOULD SUBMIT TO THE COURT BASED ON THE  
12 TESTIMONY OF MR. THOMAS, THE EXPERT HERE, THAT THAT  
13 TRANSITION FROM GOING FROM PHONE TO PHONE OR WORD OF MOUTH OR  
14 ADVERTISING OR WHATEVER, HAS NOW BECOME ALMOST EXCLUSIVELY  
15 UTILIZED THROUGH THE COMPUTER. SO I QUESTION WHETHER OR NOT,  
16 UNDER THE APPLICATION NOTES, THE COMPUTER ENHANCEMENT IS  
17 APPLICABLE, AND I ALSO ASK THE COURT TO CONSIDER THAT THIS IS  
18 PROBABLY THE TYPICAL WAY WITHIN WHICH THIS CRIME IS  
19 COMMITTED.

20 SO IT WOULD BE MY POSITION THAT THE COURT COULD  
21 CONSIDER THAT AS A REASON FOR GIVING A VARIANCE DOWNWARD FROM  
22 THE GUIDELINE RANGE.

23 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

24 MS. SERANO.

25 MS. SERANO: YOUR HONOR, I WOULD LIKE TO ADDRESS A



1 FEW THINGS THAT MR. BOLTAX MENTIONED, AND THEN JUST POINT OUT  
2 WHY THE GOVERNMENT IS RECOMMENDING WHAT WE'RE RECOMMENDING.

3 FIRST OF ALL, HE ARGUES THAT THE GAUGE SHOULD BE THE  
4 60-MONTH RECOMMENDATION THAT THE U.S. PROBATION OFFICE  
5 INITIALLY RECOMMENDED FOR MS. KELLY. I THINK THAT'S THE  
6 WRONG PLACE TO START. HER PRE-SENTENCE REPORT WAS CONDUCTED  
7 WELL BEFORE THE TRIAL. YOUR HONOR ACTUALLY SAT THROUGH THE  
8 TRIAL AND GOT TO HEAR EVERYTHING. I THINK THAT IS THE WRONG  
9 PLACE TO START.

10 IT'S CERTAINLY SOMETHING THAT YOUR HONOR CAN  
11 CONSIDER, AND YOUR HONOR IS WELL AWARE THAT WE MADE A  
12 SIGNIFICANT 5K RECOMMENDATION TO BRING HER -- BRING THE  
13 CO-DEFENDANT DOWN TO 51 MONTHS. THAT'S WHAT WE WERE ASKING  
14 FOR AND THAT'S WHAT YOUR HONOR IMPOSED BECAUSE OF HER  
15 COOPERATION IN TESTIFYING AGAINST THIS DEFENDANT AT TRIAL.  
16 IT HAD NOTHING TO DO WITH WHAT PROBATION'S ANALYSIS WAS AS TO  
17 HOW THEY CAME UP WITH THE 60-MONTH RECOMMENDATION IN THE  
18 P.S.R.

19 COUNSEL ALSO SEEMS TO GET CAUGHT UP IN THE  
20 TERMINOLOGY OF A PIMP. THE STATUTE CRIMINALIZES FOLKS WHO  
21 OBTAIN, HARBOR, TRANSPORT, ENTICE, RECRUIT. THERE ARE SEVEN  
22 VERBS THAT IF YOU DO ANY ONE OF THOSE SEVEN VERBS IN RELATION  
23 WITH A MINOR IN TERMS OF SEX TRAFFICKING, YOU CAN BE CHARGED  
24 WITH THE STATUTE; SO YOU DON'T NECESSARILY NEED TO BE A PIMP.  
25 THAT IS THE COLLOQUIAL TERM THAT WE USE FOR THE TRAFFICKERS,

1 BUT IF YOU WERE AN INDIVIDUAL WHO JUST DROVE THE MINOR FROM  
2 POINT A TO POINT B, YOU CAN BE CHARGED UNDERNEATH THIS  
3 STATUTE.

4 SO WHILE I DON'T -- I'M NOT TRYING TO MITIGATE WHAT  
5 THE CO-DEFENDANT'S ROLE WAS, I BELIEVE THAT THEY WERE EQUALLY  
6 CULPABLE. MR. BOLTAX GOES INTO ALL OF THE THINGS THAT  
7 MS. KELLY DID WITH REGARD TO THE MINOR IN THIS CASE, BUT  
8 THERE ARE TWO VERY IMPORTANT THINGS THAT THIS DEFENDANT DID  
9 THAT CAUSED THIS CRIME TO HAPPEN, TWO THINGS THAT ONLY HE  
10 COULD HAVE DONE.

11 NO. 1, HE'S THE ONE WITH THE CREDIT CARD. I BELIEVE  
12 IT WAS MS. KELLY THAT TESTIFIED THAT SHE DIDN'T HAVE A CREDIT  
13 CARD. SHE DIDN'T HAVE THE ABILITY TO PAY FOR THE ONLINE  
14 PROSTITUTION ADS. SHE ALSO DIDN'T HAVE A PHOTO I.D. OR  
15 CREDIT CARD TO PAY FOR THE HOTEL ROOMS. SO MR. RICO FILLED  
16 THAT VOID. MR. RICO WAS THE ONE THAT PROVIDED THOSE TWO  
17 NECESSARY COMPONENTS FOR THIS CRIME TO WORK.

18 SO WHILE BOTH MS. KELLY AND MR. RICO BOTH WORKED  
19 TOGETHER IN TANDEM TO PROSTITUTE OUT THE MINOR, I DON'T THINK  
20 THAT MR. RICO'S ROLE IS ANY LESS THAN MS. KELLY BECAUSE HE  
21 FILLED A VOID THAT MS. KELLY COULD NOT DO.

22 AND WE ALSO HAVE TO REMEMBER -- NOW, WHILE THIS  
23 DIDN'T COME OUT AT TRIAL, YOUR HONOR HEARD TESTIMONY ABOUT  
24 THIS -- WHILE MS. KELLY WAS EMOTIONALLY ABUSIVE AND COERCIVE  
25 TOWARDS THE MINOR, MR. RICO HAD A DIFFERENT TYPE OF

1 RELATIONSHIP WITH THE MINOR. IF YOUR HONOR RECALLS, YOUR  
2 HONOR EXCLUDED IT AT TRIAL -- RIGHTFULLY SO -- THE  
3 RELATIONSHIP BETWEEN MR. RICO AND THE MINOR, THAT THEY HAD A  
4 BOYFRIEND/GIRLFRIEND TYPE OF RELATIONSHIP.

5 AND IF YOU RECALL THE TESTIMONY FROM LARRY THOMAS,  
6 THE TERM THAT IS USED FOR THAT TYPE OF RELATIONSHIP IS A  
7 FINESSE PIMP OR SOMEONE -- A BOYFRIEND/GIRLFRIEND PIMP, WHERE  
8 YOU GET THE GIRL, THE MAN GETS THE GIRL, YOU KNOW, I LOVE  
9 YOU, I WANT TO BE WITH YOU, OR TRIES TO WOO THEM, COURT THEM  
10 AS A NORMAL RELATIONSHIP, AND THEN PUTS THEM OUT FOR  
11 PROSTITUTION.

12 AND I SUBMIT THAT THAT IS WHAT MR. RICO'S PART WAS.  
13 SO WHILE MS. KELLY WAS MORE OF THE, SAY, TRADITIONAL,  
14 COERCIVE, YOU KNOW, YOUR DOG DIED, OR ALL THE MANIPULATIVE  
15 TYPES OF THINGS, MR. RICO PLAYED A DIFFERENT ROLE IN GETTING  
16 THE MINOR TO WORK AS A PROSTITUTE. SO THOSE ARE THE THINGS  
17 THAT I WANTED TO ADDRESS WITH MR. -- WITH COUNSEL'S COMMENTS.

18 THE REASON WHY WE'RE ASKING FOR 168 MONTHS IS,  
19 NO. 1, THAT'S THE MID-RANGE OF THE GUIDELINES. HE DOESN'T  
20 HAVE ANY CRIMINAL HISTORY.

21 WITH REGARD TO THE COMPUTER ENHANCEMENT, I  
22 UNDERSTAND WHERE COUNSEL IS COMING FROM, THAT, YOU KNOW,  
23 WELL, IT'S SOMETHING THAT APPLIES IN EVERY CASE. NOT SO.  
24 UNLIKE THE CHILD PORNOGRAPHY CASES, WHERE IT IS PROBABLY  
25 APPLIED IN ABOUT 95 PERCENT OF THE CASES, IN THE PROSTITUTION

1 CASES, ONE CAN COMMIT THIS CRIME WITHOUT HAVING TO USE A  
2 COMPUTER. YOU CAN COMMIT THIS CRIME BY USING A PHONE, USING  
3 A HOTEL. YOU DON'T NECESSARILY NEED TO POST IT ONLINE.

4 IF YOUR HONOR RECALLS THE TESTIMONY FROM LARRY  
5 THOMAS IS THAT THAT WAS THE FIRST TIME HE HAD USED THE  
6 INTERNET. NORMALLY HE WOULD HAVE HIS GIRLS WORKING FOR HIM  
7 JUST WALKING ON THE STREET. SO IT'S NOT SOMETHING THAT IS  
8 USED EVERY DAY AND IT SHOULD APPLY. PROBATION RIGHTFULLY  
9 RECOMMENDED IT. WE'RE ALSO RECOMMENDING IT. IT MAKES IT  
10 MORE AGGRAVATING BECAUSE NOW YOU HAVE THIS MINOR'S PICTURE  
11 OUT THERE ONLINE FOREVER, AND IT IS ALSO MADE AVAILABLE TO A  
12 LARGER NUMBER OF PEOPLE, WHERE MORE POTENTIAL JOHNS OR  
13 CUSTOMERS CAN FIND THE MINOR TO ENGAGE IN THIS.

14 SO I THINK THE GUIDELINES ARE CORRECTLY CALCULATED.  
15 WE'RE RECOMMENDING THE MID-RANGE OF THAT. I ALSO THINK THAT  
16 ONE OF THE AGGRAVATING FACTORS THAT MR. RICO PLAYED WAS THAT,  
17 IF YOUR HONOR RECALLS THE TESTIMONY, MS. KELLY AS WELL AS I  
18 BELIEVE THE MINOR, WHILE JANE, THE MINOR GOT THE DRUGS  
19 FROM -- SOME OF THE DRUGS FROM THE CO-DEFENDANT, THE  
20 CO-DEFENDANT GOT THE DRUGS FROM MR. RICO.

21 MR. RICO USED TO WORK AT STINGAREE, WHICH IS A  
22 NIGHTCLUB DOWNTOWN. I THINK THERE WAS TESTIMONY OR AT LEAST  
23 SOME INFERENCE THAT THAT'S WHERE HE WOULD OBTAIN HIS DRUGS.  
24 HE WAS SELLING DRUGS. HE WOULD PROVIDE THEM TO THE  
25 CO-DEFENDANT. THE CO-DEFENDANT WOULD SUPPLY THEM TO THE

1 MINOR. ANY WAY YOU SLICE IT, IT'S A HORRIBLE THING TO GET A  
2 MINOR HOOKED ON DRUGS FOR THE PURPOSE FOR HER TO WORK AS A  
3 PROSTITUTE.

4 SO WHETHER HE GAVE THEM TO THE MINOR DIRECTLY OR  
5 WHETHER THEY PASSED THROUGH AND HE KNEW THAT THIS IS WHERE  
6 THE DRUGS WERE GOING, AND THEN THE MONEY WOULD FLOW BACK TO  
7 HIM FROM THE PROSTITUTION, HE IS KNEE-DEEP IN THIS AND HE  
8 SHOULD BE PENALIZED AS SUCH.

9 MOREOVER, HAD MS. KELLY -- IF YOU WANT TO TALK ABOUT  
10 SENTENCING DISPARITIES. HAD MS. KELLY NOT COOPERATED AND NOT  
11 RECEIVED THE BENEFIT OF A MOTION ON BEHALF OF THE GOVERNMENT,  
12 SHE WOULD BE LOOKING AT A SIMILAR AMOUNT OF TIME BECAUSE SHE  
13 HAD SOME CRIMINAL HISTORY THAT MR. RICO WOULDN'T HAVE. SO WE  
14 CAN'T COMPARE WHAT MS. KELLY GOT TO WHAT MR. RICO IS GOING TO  
15 GET BECAUSE MR. RICO ELECTED TO GO TO TRIAL, AS IS HIS RIGHT,  
16 AND HE ELECTED -- HE DIDN'T COOPERATE. SO WE'RE TALKING  
17 ABOUT APPLES AND ORANGES.

18 SO WE CAN'T LOOK AT THEM -- WE CAN CERTAINLY LOOK AT  
19 THEIR CONDUCT, BUT WE CAN'T LOOK AT THE SENTENCE, WELL, IF  
20 THE CO-DEFENDANT GOT 51 MONTHS, THEN MY GUY SHOULD GET THE  
21 LEAST AMOUNT. NO. HE DOESN'T GET THE THIRD POINT FOR  
22 ACCEPTANCE. HE DOESN'T GET ANY 5K RECOMMENDATION OR ANYTHING  
23 LIKE THAT.

24 SO WE BELIEVE THAT 168 MONTHS IS AN APPROPRIATE  
25 SENTENCE, FOLLOWED BY TEN YEARS OF SUPERVISED RELEASE.

1                   MR. BOLTAX: MAY I BRIEFLY RESPOND?

2                   THE COURT: YES, SIR.

3                   MR. BOLTAX: YOUR HONOR, FIRST OF ALL, I'M NOT  
4 CAUGHT UP ON THE ISSUE OF WHETHER MY CLIENT IS A PIMP. THAT  
5 LANGUAGE IS STATED CLEARLY IN COUNSEL'S SENTENCING  
6 MEMORANDUM. SHE STATES ON PAGE 4, LINE 23, DEFENDANT IS A  
7 PIMP.

8                   IN TERMS OF CLAIMING THAT MY CLIENT GOT J.C. HOOKED  
9 ON DRUGS, OR THAT MS. KELLY DID, LET ME JUST INDICATE THAT I  
10 HAVE SIGNIFICANT INFORMATION -- AND I CAN SHOW IT TO THE  
11 COURT, BUT I PREFER TO DO IT AT SIDEBAR -- THAT J.C. HAD  
12 SIGNIFICANT SUBSTANCE ABUSE ISSUES FOR A SIGNIFICANT PERIOD  
13 OF TIME PRIOR TO THIS OFFENSE BEING COMMITTED.

14                   I BELIEVE THAT IN MAY OF 2011, SHE HAD SUBSTANCE  
15 ABUSE ISSUES AND WAS ATTENDING TEEN MCALLISTER INSTITUTE,  
16 WHICH IS THE MCALLISTER INSTITUTE, I THINK THE COURT PROBABLY  
17 KNOWS, IS A DRUG REHAB PROGRAM. THEY HAVE A SPECIAL PROGRAM  
18 FOR TEENAGERS. AND SHE HAD RELAPSED IN NOVEMBER OF 2011, A  
19 COUPLE OF MONTHS BEFORE THIS. SO TO ACCUSE MY CLIENT OF  
20 GETTING HER HOOKED IS, ONE -- IS NOT ACCURATE AND IT WOULD  
21 MISCHARACTERIZE THE SITUATION THAT OCCURRED HERE.

22                   COUNSEL ALSO SAYS THAT THIS CRIME CAN BE COMMITTED  
23 WITHOUT A COMPUTER, AS OPPOSED TO CHILD PORNOGRAPHY OFFENSES.  
24 CHILD PORNOGRAPHY OFFENSES CAN AND USED TO BE COMMITTED  
25 WITHOUT A COMPUTER. SO I THINK IT'S SIGNIFICANT IN TERMS OF

1 THE ANALYSIS AS TO WHETHER OR NOT THE COMPUTER ENHANCEMENT  
2 APPLIES.

3 I ALSO INDICATE -- WOULD LIKE TO INDICATE THAT THERE  
4 WAS NO EVIDENCE THAT MY CLIENT HAD A BOYFRIEND/GIRLFRIEND  
5 RELATIONSHIP THAT CAME INTO EVIDENCE DURING TRIAL. THERE WAS  
6 NO EVIDENCE IT CAME INTO EVIDENCE DURING TRIAL.

7 THE COURT: I EXCLUDED IT, COUNSEL.

8 MR. BOLTAX: I UNDERSTAND IT WAS EXCLUDED. BUT THE  
9 COURT HAD NO WAY OF KNOWING UNTIL THE WITNESSES TESTIFIED AS  
10 TO WHETHER IT HAD ANY CREDIBILITY OR NOT, BECAUSE THEY  
11 WEREN'T CROSS-EXAMINED ON THE MATTER. SO I DON'T THINK THAT  
12 THE COURT SHOULD CONSIDER IT, AND I THINK IT WOULD BE  
13 SOMETHING THAT WOULD BE, IN MY VIEWPOINT, A VIOLATION OF  
14 BOOKER AND WOULD BE ALLOWING THE COURT TO CONSIDER MATTERS  
15 THAT WERE NOT INTRODUCED INTO EVIDENCE AT TRIAL.

16 THE COURT: THE COURT CONSIDERS THAT RELEVANT  
17 CONDUCT.

18 MR. BOLTAX: I UNDERSTAND THAT. I WOULD INDICATE TO  
19 THE COURT THAT I DON'T BELIEVE THE COURT SHOULD, BECAUSE IT  
20 HASN'T STOOD THE TEST OF TIME IN TERMS OF CROSS-EXAMINATION  
21 OR THE WITNESSES ACTUALLY TESTIFYING TO IT.

22 AND I SHOULD INDICATE TO THE COURT THAT THAT WAS  
23 SOMETHING THAT WE WERE NOTIFIED ABOUT AT THE VERY LAST  
24 MINUTE, JUST SHORTLY BEFORE TRIAL OCCURRED. SO WHETHER -- WE  
25 DIDN'T EVEN HAVE AN OPPORTUNITY TO INVESTIGATE THAT

1 PARTICULAR ACCUSATION.

2 SO WITH THAT BEING SAID, I THINK I'VE PRETTY MUCH  
3 SET FORTH MY POSITION. MY CLIENT INDICATES THAT HE WANTS TO  
4 ADDRESS THE COURT IF THE COURT IS WILLING TO HEAR HIM.

5 THE COURT: ALL RIGHT. THANK YOU.

6 MR. BASS.

7 MR. BASS: YOUR HONOR, FOR REASONS OUTLINED IN THE  
8 PRE-SENTENCE REPORT, WE WOULD RECOMMEND 144 MONTHS.

9 THE COURT: ALL RIGHT. THANK YOU.

10 MR. RICO, WHAT DO YOU HAVE TO SAY, SIR?

11 THE DEFENDANT: YOUR HONOR, I'VE BEEN DOWN FOR A  
12 LITTLE OVER MORE THAN A YEAR NOW, AND I KEEP TRYING TO BETTER  
13 AND BETTER MYSELF AS MUCH AS POSSIBLE. AND I HAVE BEEN  
14 WORKING FOR OVER A YEAR NOW, TOO. MONDAY THROUGH THURSDAY I  
15 SERVE EVERYBODY TRAYS. I GET UP AT 5:30 AND WORK UNTIL 2:30.  
16 I CLEAN THE TOILETS. I SWEEP AND MOP ALL THE AREA. I'VE  
17 ALWAYS HELD A JOB ON THE OUTSIDE.

18 I JUST WANT TO GET BACK TO MY FAMILY AS SOON AS  
19 POSSIBLE AND -- I'M JUST REAL NERVOUS RIGHT NOW. I CAN'T  
20 EVEN THINK STRAIGHT. I'VE NEVER BEEN ASSOCIATED WITH GANG  
21 MEMBERS. I DON'T ASSOCIATE WITH GANG MEMBERS. I DON'T PLAN  
22 ON EVER VIOLATING WHEN I GET OUT. I PLAN ON DEDICATING MY  
23 LIFE TO BEING A JEHOVAH'S WITNESS, AND I JUST ASK THAT YOU  
24 PLEASE BE PASSIONATE AND HAVE SOME MERCY ON MY SENTENCING.  
25 AND THAT'S ABOUT IT.



1           THE COURT: ALL RIGHT. THANK YOU.

2           THE DEFENDANT: THANK YOU FOR LETTING ME SPEAK.

3           THE COURT: ALL RIGHT. SIR, YOUR SENTENCE SHALL BE  
4 BASED UPON THE FOLLOWING. I'LL LOOK TO THE GUIDELINES FIRST,  
5 BUT BEFORE I GET TO THE GUIDELINES, WITH RESPECT TO YOUR  
6 OBJECTIONS, YOUR OBJECTIONS ARE OVERRULED, INCLUDING THE  
7 OBJECTION WITH RESPECT TO THE USE OF A COMPUTER. IT'S  
8 OVERRULED.

9           UNDER THE GUIDELINES, YOUR BASE OFFENSE LEVEL IS 30.  
10 YOUR BASE OFFENSE LEVEL IS INCREASED BY TWO LEVELS DUE TO THE  
11 USE OF A COMPUTER, AND IT'S INCREASED BY ANOTHER TWO LEVELS  
12 DUE TO A COMMERCIAL SEX ACT, FOR AN ADJUSTED OFFENSE LEVEL OF  
13 34. YOUR CRIMINAL HISTORY SCORE IS ZERO, YOUR CRIMINAL  
14 HISTORY CATEGORY IS ONE, AND UNDER THE GUIDELINES, YOUR  
15 SENTENCE SHOULD RANGE BETWEEN 151 AND 188 MONTHS IN CUSTODY.

16           I LOOK TO THE FACTORS PROVIDED BY LAW WHICH PERMIT  
17 ME TO DETERMINE -- WELL, FIRST OF ALL, YOU ASK FOR A DOWNWARD  
18 DEPARTURE BASED UPON A COMBINATION OF FACTORS. YOU POINT TO  
19 YOUR AGE, YOUR FAMILY TIES AND RESPONSIBILITIES AND A  
20 DEPARTURE BASED UPON A PROPORTIONATE SENTENCE WITH YOUR  
21 CO-DEFENDANT. THE COURT FINDS THAT YOUR REQUEST FOR  
22 COMBINATION OF FACTORS SHOULD BE DENIED. THE COURT FINDS  
23 THAT THOSE FACTORS IN THIS INSTANCE DO NOT CREATE AN  
24 EXTRAORDINARY CASE.

25           I LOOK TO THE FACTORS PROVIDED BY LAW WHICH PERMIT

1 ME TO DETERMINE AN APPROPRIATE SENTENCE FOR YOU. I'M MINDFUL  
2 OF YOUR PERSONAL HISTORY AND CHARACTERISTICS, THE NEED TO  
3 DETER YOU AND OTHERS FROM ACTIVITY OF THIS SORT. THE COURT  
4 UNDERSTANDS THE NEED TO AVOID AN UNWARRANTED SENTENCE  
5 DISPARITY. I TAKE INTO ACCOUNT YOUR LACK OF PRIOR CRIMINAL  
6 HISTORY. I TAKE INTO ACCOUNT THE NATURE AND EXTENT OF YOUR  
7 INVOLVEMENT IN THIS OFFENSE.

8 AND HAVING CONSIDERED ALL THESE FACTORS, THE COURT  
9 SENTENCES YOU TO 130 MONTHS IN CUSTODY. THERE SHALL BE NO  
10 FINE. YOU SHALL PAY THE \$100 SPECIAL ASSESSMENT.

11 AND YOU ARE PLACED ON SUPERVISED RELEASE FOR A  
12 PERIOD OF FIVE YEARS. I UNDERSTAND THAT THE UNITED STATES  
13 REQUESTS A LONGER PERIOD OF SUPERVISED RELEASE, BUT THE COURT  
14 AGREES WITH THE PROBATION OFFICER THAT A FIVE-YEAR TERM  
15 SHOULD BE SUFFICIENT.

16 AND YOUR SUPERVISED RELEASE IS BASED UPON THE  
17 GENERAL AND MANDATORY CONDITIONS IMPOSED BY THE PROBATION  
18 DEPARTMENT, INCLUDING THE SPECIAL CONDITIONS. I CAN READ  
19 THEM -- HAVE YOU REVIEWED THE SPECIAL CONDITIONS ON PAGES 19  
20 AND 20 OF THE PRE-SENTENCE REPORT, SIR?

21 MR. BOLTAX: YES, I HAVE. I'VE REVIEWED THEM WITH  
22 THE CLIENT, YOUR HONOR.

23 MS. SERANO: AND, YOUR HONOR, I DID ASK FOR TWO --  
24 ONE SUBSTITUTED ONE AND ONE ADDITIONAL ONE ON PAGE 5 OF THE  
25 GOVERNMENT'S RECOMMENDED MEMORANDUM.

1           THE COURT: ALL RIGHT. THANK YOU.

2           MR. BOLTAX: IS THE COURT GOING TO IMPOSE EITHER OF  
3 THOSE CONDITIONS?

4           THE COURT: I'D LIKE TO HEAR FROM YOU ON THE FIRST  
5 ONE. THE SECOND IS ONE I WILL.

6           WHAT'S YOUR THOUGHT ON THE FIRST ONE?

7           MR. BOLTAX: THE FIRST ONE --

8           THE COURT: FOR THE RECORD, THE FIRST CONDITION,  
9 SUBSTITUTED CONDITION PROPOSED BY THE UNITED STATES -- WELL,  
10 THE UNITED STATES PROPOSES TO SUBSTITUTE SPECIAL CONDITION  
11 NO. 1, WHICH DEALS WITH SEARCH, SUBMISSION TO A SEARCH, WITH  
12 A FOURTH AMENDMENT WAIVER SEARCH.

13           MR. BOLTAX: THERE ARE TWO REASONS. I DON'T THINK  
14 MY CLIENT POSSESSED ANY OF THE INSTRUMENTALITY OF THE CRIME  
15 HERE, IN TERMS OF THE COMPUTER, ET CETERA; SO I DON'T SEE THE  
16 PURPOSE OF SEARCHING HIM OR HIS COMPUTER. THE SECOND THING,  
17 I THINK THE CONDITION IS TOO BROAD, BECAUSE IT'S AN  
18 UNCONDITIONAL SEARCH WITHOUT ANY CAUSE WHATSOEVER.

19           SO IF THE COURT IS GOING TO IMPOSE IT, I THINK THERE  
20 NEEDS TO BE SOME TYPE OF REASONABLE CAUSE PROVISION IN THERE,  
21 AS OPPOSED TO AN UNEQUIVOCAL ABILITY TO SEARCH HIM WHENEVER  
22 THEY WANT TO WITHOUT ANY REASONABLE SUSPICION OR SUSPICION  
23 WHATSOEVER.

24           THE COURT: MS. SERANO.

25           MS. SERANO: MY CONCERN IS THIS, IS THAT THERE WAS

1 TESTIMONY AT TRIAL, I BELIEVE IT WAS THROUGH EITHER HIS  
2 SISTER OR SOMEWHERE ELSE, THAT HE HAD AN APARTMENT, BUT YET  
3 HE WAS STAYING IN ALL THESE DIFFERENT MOTEL ROOMS FOR WEEKS  
4 ON END WITH THE CO-DEFENDANT.

5 I WANT TO GIVE THE PROBATION OFFICER AS MANY TOOLS  
6 AS POSSIBLE TO MAKE SURE THAT HE IS DOING WHAT HE'S SUPPOSED  
7 TO BE DOING. THIS IS JUST NOT A COMPUTER CONDITION. THIS IS  
8 A CONDITION WHERE REGARDLESS OF WHERE HE RESIDES, IF HE'S  
9 SLEEPING ON A FRIEND'S SOFA OR RENTS A HOTEL ROOM, WHAT HAVE  
10 YOU, GIVEN HIS INVOLVEMENT IN THIS CASE, THE ALLEGATIONS OF  
11 THE PROVIDING OF THE DRUGS AND WORKING WITH SOMEBODY, WORKING  
12 TOGETHER TO PROSTITUTE OUT SOMEBODY, I THINK IT WARRANTS A  
13 MORE STRINGENT SEARCH CONDITION.

14 I WILL NOTE THAT IF THIS WERE IN STATE COURT, THIS  
15 WOULD BE SOMETHING THAT WOULD BE NORMALLY BE IMPOSED. AGAIN,  
16 BECAUSE THE CONDITIONS ARE SO STRINGENT, I WANT TO MAKE SURE  
17 THAT THE PROBATION OFFICER HAS AS MANY TOOLS AS POSSIBLE TO  
18 MAKE SURE OF HIS COMPLIANCE.

19 MR. BOLTAX: MAY I BRIEFLY RESPOND?

20 THE COURT: NO. THANK YOU. THANK YOU, MA'AM.

21 COUNSEL, COULD YOU SHARE THE CONDITIONS, THE  
22 PROBATION OFFICER'S CONDITIONS WITH YOUR CLIENT AS I GO  
23 THROUGH THESE.

24 MR. BOLTAX: SURE.

25 THE COURT: ALL RIGHT.

1           MR. BOLTAX: ONE MOMENT, YOUR HONOR. I NEED TO PULL  
2 IT OUT.

3           THE COURT: SURE.

4           ALL RIGHT. MR. RICO, THE PROBATION OFFICER  
5 RECOMMENDS EIGHT PARTICULAR SPECIAL CONDITIONS.

6           DID YOU REVIEW THESE WITH YOUR LAWYER?

7           THE DEFENDANT: YES.

8           THE COURT: ALL RIGHT. I CAN READ THEM TO YOU, OR I  
9 CAN ACCEPT YOUR STATEMENT THAT YOU UNDERSTAND WHAT THESE ARE  
10 AND I NEED NOT PUT THEM ON THE RECORD.

11          WHAT'S YOUR THINKING?

12          MR. BOLTAX: ARE YOU GOING TO PROVIDE MY CLIENT WITH  
13 A COPY OF THOSE THIS MORNING?

14          THE COURT: YES, YOU'LL HAVE A COPY OF THEM.

15          THE DEFENDANT: NO NEED TO DO IT ON THE RECORD.

16          THE COURT: ALL RIGHT. THANK YOU.

17          THE COURT WILL IMPOSE RECOMMENDED CONDITIONS 1  
18 THROUGH 8 UNDER PARAGRAPH 102. THE COURT WILL NOT IMPOSE THE  
19 FOURTH AMENDMENT WAIVER CONDITION PROPOSED BY THE UNITED  
20 STATES. THE COURT IS OF THE MIND THAT THE STANDARD SEARCH  
21 CONDITION IS APPROPRIATE AND THERE IS NO NEED TO HAVE THE  
22 MORE STRINGENT FOURTH AMENDMENT WAIVER.

23          THE COURT WILL IMPOSE AN ADDITIONAL CONDITION TO THE  
24 EIGHT THAT ARE INCLUDED, TWO ADDITIONAL CONDITIONS.  
25 MR. RICO, IN ADDITION TO THE EIGHT CONDITIONS CONTAINED IN

1 PARAGRAPH 102, HERE ARE TWO ADDITIONAL CONDITIONS. NO. 1,  
2 YOU ARE NOT TO ASSOCIATE WITH KNOWN PROSTITUTES OR PIMPS,  
3 AND/OR LOITER IN AREAS KNOWN TO BE FREQUENTED BY THOSE  
4 ENGAGED IN PROSTITUTION; THAT'S NO. 9.

5 AND NO. 10, YOU ARE TO PROVIDE THE PROBATION OFFICER  
6 WITH AN ADDRESS OR ADDRESSES WHERE YOU RESIDE OR WHERE YOU  
7 WILL BE STAYING DURING THE PERIOD OF SUPERVISED RELEASE.

8 DO YOU UNDERSTAND?

9 THE DEFENDANT: YES, SIR.

10 THE COURT: IF YOU ARE FOUND TO BE LIVING SOMEWHERE  
11 ELSE, THEN YOU'RE IN VIOLATION OF YOUR CONDITIONS.

12 DO YOU UNDERSTAND THAT?

13 THE DEFENDANT: YES, SIR.

14 THE COURT: THE COURT IS OF THE MIND THAT THESE  
15 CONDITIONS ARE SUFFICIENT, BUT NOT GREATER THAN NECESSARY  
16 UNDER THE CIRCUMSTANCES.

17 MR. BOLTAX: I HAVE TWO OTHER REQUESTS, YOUR HONOR.

18 MY CLIENT -- AND IT'S CLEAR FROM THE TESTIMONY --  
19 HAS A SUBSTANCE ABUSE PROBLEM. I'D ASK THE COURT IF IT WOULD  
20 RECOMMEND THE RDAP PROGRAM SO HE CAN GET SOME TREATMENT.

21 THE COURT: THE COURT WILL RECOMMEND THE 500-HOUR  
22 DRUG TREATMENT PROGRAM. BUT THAT'S ONLY A RECOMMENDATION AND  
23 IT'S UP TO THE BUREAU OF PRISONS TO PLACE YOU.

24 MR. BOLTAX: THE OTHER THING, YOUR HONOR, IS HIS  
25 FAMILY LIVES NEAR SOUTHERN CALIFORNIA. WOULD THE COURT

1 RECOMMEND THE WESTERN REGION FOR HIM TO BE HOUSED DURING THE  
2 PERIOD OF HIS INCARCERATION?

3 THE COURT: MS. SERANO, IS THERE ANY SPECIAL  
4 COUNSELING IN THE PRISON SETTING FOR DEFENDANTS CONVICTED OF  
5 THIS TYPE OF AN OFFENSE?

6 MS. SERANO: THERE ARE PROGRAMS FOR FOLKS THAT  
7 COMMIT CHILD PORNOGRAPHY OFFENSES, BUT TO MY KNOWLEDGE, THERE  
8 IS NO SPECIALIZED PROGRAM FOR FOLKS WHO COMMIT TRAFFICKING.

9 THE COURT: ALL RIGHT. THANK YOU.

10 MS. SERANO: IT'S THE BUREAU OF PRISONS' SEX  
11 OFFENDER MANAGEMENT PROGRAM, BUT THAT'S MORE GEARED TOWARDS  
12 INDIVIDUALS CONVICTED OF CHILD PORNOGRAPHY OFFENSES.

13 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

14 THE COURT WILL ALSO RECOMMEND THAT YOU BE HOUSED IN  
15 THE WESTERN REGION SO THAT FAMILY MEMBERS MIGHT MORE EASILY  
16 VISIT. THAT'S ONLY A RECOMMENDATION AS WELL. IT'S UP TO THE  
17 THE BUREAU OF PRISONS TO PLACE YOU.

18 DO YOU UNDERSTAND, SIR?

19 THE DEFENDANT: YES. THANK YOU.

20 MS. SERANO: AND, YOUR HONOR, ONE LAST THING. HE  
21 WAS CONVICTED OF BOTH COUNTS. I ASSUME THE GUIDELINES AND  
22 SENTENCE WILL BE THE SAME, TO RUN CONCURRENTLY?

23 THE COURT: THAT'S YOUR SENTENCE AS TO COUNT 1, SIR.  
24 YOUR SENTENCE AS TO COUNT 2 IS 130 MONTHS IN  
25 CUSTODY. THERE SHALL BE NO FINE. YOU SHALL PAY THE \$100

1 SPECIAL ASSESSMENT. AND YOU ARE PLACED ON SUPERVISED RELEASE  
2 FOR A PERIOD OF FIVE YEARS UNDER THE SAME TERMS AND  
3 CONDITIONS IMPOSED IN COUNT 1.

4 DO YOU UNDERSTAND?

5 THE DEFENDANT: YES, SIR.

6 THE COURT: THE CUSTODIAL SENTENCE IN COUNT 2 SHALL  
7 RUN CONCURRENTLY WITH THE CUSTODIAL SENTENCE IN COUNT 1 FOR A  
8 TOTAL OF 130 MONTHS IN CUSTODY. YOU SHALL PAY BOTH SPECIAL  
9 ASSESSMENTS FOR A TOTAL OF \$200. AND THE TERMS OF SUPERVISED  
10 RELEASE SHALL RUN CONCURRENTLY FOR A TOTAL PERIOD OF FIVE  
11 YEARS OF SUPERVISED RELEASE.

12 DO YOU UNDERSTAND YOU HAVE THE RIGHT TO APPEAL YOUR  
13 CONVICTION AND SENTENCE?

14 THE DEFENDANT: YES, SIR.

15 THE COURT: ALL RIGHT. ONE SECOND.

16 MR. BOLTAX, ANY OBJECTION TO -- BECAUSE I'VE ADDED  
17 CONDITIONS HERE, OTHER THAN THOSE PROPOSED BY THE PROBATION  
18 DEPARTMENT, ANY OBJECTION TO RECEIVING THE CONDITIONS OF  
19 SUPERVISED RELEASE LATER TODAY OR FIRST THING TOMORROW?

20 MR. BOLTAX: THAT'S NOT A PROBLEM, YOUR HONOR. WHAT  
21 I'LL DO IS MAKE A COPY OF THEM AND BRING THEM TO THE CLIENT.  
22 HE IN ALL LIKELIHOOD WON'T BE MOVED BETWEEN NOW AND  
23 TOMORROW.

24 THE COURT: ALL RIGHT. DO YOU HAVE ANY OBJECTION TO  
25 THAT, MR. RICO?



1                   THE DEFENDANT: NO, SIR.

2                   THE COURT: ALL RIGHT. VERY WELL.

3                   MS. SERANO: I BELIEVE THERE WAS AN OSC BEFORE YOUR  
4 HONOR CONCERNING A SUBPOENA ISSUED.

5                   THE COURT: YES. I'M GOING TO TRAIL THAT JUST FOR A  
6 MOMENT. I'D LIKE FOR BOTH COUNSEL TO REMAIN IN THE  
7 COURTROOM.

8                   THAT'S ALL FOR YOU, SIR.

9                   MR. BOLTAX: YOUR HONOR, CAN I STEP OUTSIDE TO TALK  
10 TO THE CLIENT'S FAMILY?

11                   THE COURT: YES. I'M GOING TO HANDLE ONE MATTER,  
12 I'M GOING TO TRAIL ONE MATTER AND THEN WE'LL COME BACK.  
13 OKAY.

14                   (PROCEEDINGS CONCLUDED AT 9:39 A.M.)

15                   --000--

16                   C E R T I F I C A T I O N

17                   I HEREBY CERTIFY THAT I AM A DULY APPOINTED,  
18 QUALIFIED AND ACTING OFFICIAL COURT REPORTER FOR THE UNITED  
19 STATES DISTRICT COURT; THAT THE FOREGOING IS A TRUE AND  
20 CORRECT TRANSCRIPT OF THE PROCEEDINGS HAD IN THE  
21 AFOREMENTIONED CAUSE; THAT SAID TRANSCRIPT IS A TRUE AND  
22 CORRECT TRANSCRIPTION OF MY STENOGRAPHIC NOTES; AND THAT THE  
23 FORMAT USED HEREIN COMPLIES WITH THE RULES AND REQUIREMENTS  
24 OF THE UNITED STATES JUDICIAL CONFERENCE.

25                   DATED: APRIL 12, 2014, AT SAN DIEGO, CALIFORNIA.

S/CAMERON P. KIRCHER  
                                  CAMERON P. KIRCHER